

August 8, 2002

John Kittle
Director
Fax: 703.308.3139

Re: Massage and Tactile Stimulation Device
Application No. 09/665,608

Dear John Kittle:

This communication is written to respectfully request the required fees for a continuation (\$370) and the fees for a two months extension (\$200) is waived due to the extenuating circumstances. Events out of my control have occurred during my attempts to patent my product that I believe have prevented me from due process.

On September 20, 2000 my *pro se* Declaration for Utility Patent Application with initial filing was filed in the United States Patent and Trademark Office (PTO). A paid professional patent drawer, to ensure the proper guidelines were followed, drew the included drawings of my invention. In the "Accompanying Application Parts" number 15 box "Other:" was marked for a "Request under MPEP§ 707.07(j).

The first Office Action Summary was received September 20, 2001. I carefully reviewed the correspondence and phoned the examiner assigned to my case, Justine R. Yu. I left a message for Examiner Yu and she returned my call that evening. At that time, I had general questions about my claim rejections 35 U.S.C. 112, 35 U.S.C.102 (b) based on Lohati et al (Pat. No. 4,577,625), and 35 U.S.C. 103 (a) based on Lohati et al desiring a verbal explanation of my claim rejections. I received a general, brief explanation from Examiner Yu based on the prior art of Lohati.

Although my first child was born on December 14, 2001 after months of complications and a hospitalization, I attempted to fax my response to the Office Action of September 20, 2001 on December 20, 2001. Without success, I attempted to fax my response until late into the night to 703.305.3590, the number included in the conclusion of the Office Action. I was concerned I would be penalized. I began attempting to fax 6:00 AM the following morning without success. I phoned several numbers at the PTO beginning at 8:00 AM to receive assistance and left messages. I spoke with Mickey Yu, the supervisor listed in the Office Action and informed him of my dilemma. I was given the correct fax number as there had been a problem with the above fax number and I mailed it certified mail on December 21, 2001.

I received a telephone call from Mr. Everett Williams stating there is a proper format for submitting and showing changes. I resubmitted my response on January 18, 2002.

I received a final rejection dated March 22, 2002 which included the following:

1. Claim objections were stated for the numbering of claims.
2. Drawings were objected to under 37 CFR 1.83(a) – "...drawings must show every feature...Therefore, the 'means for joining two pieces of materials' and 'means providing for stationary bonding' in claim 1 must be shown or the feature(s) cancelled from the claim(s)...."
3. Under Claim Rejection 35 U.S.C. 112 the terms "indefinite", "confusing" and "vague" were used.
4. Under Claim Rejection 35 U.S.C. 102 Wroclawski (DE 298 02 342 U1) was now included along with the previously mentioned Lohati et al (4,577,625).
5. Under Claim Rejection 35 U.S.C. 103 the prior art of Lohati et al was relied upon.

Prior to responding to this final rejection of March 22, 2002 I attempted to speak with Examiner Yu without success due to an extended absence. According to the voice mail of Examiner Yu, she was to return on July 7, 2002. This presented a problem as my response was due by June 22, 2002. I spoke with Mickey Yu and discovered he was no longer Examiner Yu's supervisor. He graciously attempted to send me to the appropriate supervisor. I attempted to reach Jeanette Chapman, the new supervisor listed in the Office Action, whose voice mail referred me to "Carol Lake or John Kittle". I spoke with Ms. Lake who attempted to find the current supervisor for Art Unit 3764. I was referred to Steve Crow, who was no longer acting supervisor. I was then referred to Angela Sykes. I spoke with Ms. Sykes on June 20, 2002 requesting an opinion on my proposed changes on June 21, 2002 prior to my official response. However, she was not going to be in on June 21, 2002. Desperately needing assistance I spoke with Ms. Lake again and ended up speaking with Mr. Crow again. Mr. Crow stated he would write a note and leave it for Examiner Yu. To my dismay my attempts to get direction, an understanding on what the Examiner wanted, and what I needed to do for my proposed claims to be allowed were unsuccessful.

As a *pro se*, I had to submit a response blindly to the best of my ability. Surprisingly, Examiner Yu returned on July 7, 2002 and mailed an Advisory Action on July 8, 2002 without a courtesy call. When I spoke with Examiner Yu, I explained my regret in not receiving a call prior to her Advisory Action as she was absent for an extended period of time prior to my expiration date and I had to submit a response without communicating with her. She pointed me to page two of the Advisory Action, which was a continuation of number 2. In addition, she suggested I file a continuation. When I requested a more detailed explanation on why my proposed amendments would not be entered, I was referred to the continuation of number 2 again, without a detailed explanation of what Examiner Yu meant when she marked "they raise new issues...". Examiner Yu's responses were vague and brief leaving me unsure of the purpose of filing a continuation if I was still unclear as to her interpretations of my newly revised claims.

I have two friends who have gone through this process and have had patents issued, one having just received his second patent. From conversing with them, their experiences

have not been as challenging and frustrating as mine. I desired to discuss my difficulties in receiving assistance with you, however that particular week you were on vacation. Ms. Lake referred me to Andy Kashnikow, Special Programs Examiner. Mr. Kashnikow spoke with Ms. Sykes. An in person interview was originally scheduled with Examiner Yu and Ms. Sykes on July 29, 2002 but was then rescheduled for August 5, 2002 at 2:00 PM.

On Monday, August 5, 2002 my husband and I met with Examiner Yu and Ms. Sykes. I gave a demonstration of my product and I handed out a chart summarizing the detailed actions of the September 20, 2002 Office Action Summary. We discussed in detail my newly revised claim one of my June 23, 2002 response. My claim was primarily discussed with Ms. Sykes and I greatly appreciate the time she took in carefully reviewing my claim. Had this careful attention and clear verbal interaction been done earlier in this process, I do not believe I would be faced with paying an additional \$570 unnecessarily. With great frustration and disappointment I left the meeting with Examiner Yu and Ms. Sykes. I came away from the meeting with the following:

1. My claim number one is now patentable over Lohati based on lines 10-13.
2. Stating "...a first effective working area on the front wall of said fingers, a second effective working area on said located on the back wall of said fingers, and a third effective working area located on said palm area..." is not explicit enough. I must state the "predetermined upward projections" in my invention are exclusively at these areas.
3. Although claim one speaks of "predetermined upward projections" and my specification states "prominent projections of at least 0.14 inches (3.5mm) in height", it needs to be added to the claim.

I have now been told I need to file a continuance as Examiner Yu must now "search" for patents that may have these "additional" limitations as when she previously searched she may not have been looking for patents with the above limitations.

I believe had I had the opportunity to have a phone interview, as desired, prior to submitting my response on June 23, 2002 these points could have been addressed without them being considered "new issue" and me filing a continuance. In revising my claims I was attempting, to the best of my ability, to address the terms "vague", "indefinite", and "confusing" used by Examiner Yu in describing statements in my claims. My husband received the Interview Summary dated 04 August 2002, which is incorrect, as our meeting was on 05 August 2002. Option "i" was not checked. Does this mean I am required to file a "Statement of the Substance of the Interview"?

Please review my case and consider my request. Again, due to extenuating events beyond my control in attempting to contact and communicate with Examiner Yu I am requesting the aforementioned fees be waived. I will gladly answer any questions or concerns you may have. I can be reached at 410.880.0863. Thank you in advance for the careful consideration of this matter.

Sincerely,



Deanna T. Ongwela, MS, PT

Enclosure: Claim one

Chart Summarizing detailed action of 9/20/2001

Drawing

Cc: Andy Kashnikow, Special Programs Examiner